

CHAPTER 1
HB 480 - FINAL VERSION

13Feb2025... 0061h

2026 SESSION

25-0779
09/05

HOUSE BILL

480

AN ACT relative to restoration of competency to stand trial for criminal defendants.

SPONSORS: Rep. M. Pearson, Rock. 34; Rep. Gregg, Hills. 7; Rep. Kuttub, Rock. 17; Rep. Lynn, Rock. 17; Rep. Rhodes, Ches. 17; Rep. Roy, Rock. 31; Rep. Turer, Rock. 6; Sen. Fenton, Dist 10; Sen. Gannon, Dist 23; Sen. Long, Dist 20

COMMITTEE: Judiciary

AMENDED ANALYSIS

This bill directs the committee to study restoration of competency to submit any additional proposals on or before July 1, 2025 and requires, once adequate funding is received, the department of health and human services to establish a 2-year pilot program to create the position of one or more forensic liaisons, who will assist in competency proceedings of criminal defendants.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough.]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty-Six

AN ACT relative to restoration of competency to stand trial for criminal defendants.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1:1 Directive to Study Committee; Recommendations. The committee to study restoration of
2 competency, established in RSA 135:49, shall submit any additional recommendations for legislative
3 proposals, as identified in its November 1, 2024 report, to the president of the senate, the speaker of the
4 house of representatives, the senate clerk, the house clerk, and the governor on or before July 1, 2025.

5 1:2 Statement of Findings and Purpose. The general court finds that:

6 I. Individuals with severe mental illness are at increased risk of interacting with the probate court
7 on civil commitments as well as with the criminal justice system in 2 important areas: trial competency and
8 competency restoration.

9 II. As is evidenced by the number of individuals ordered for competency evaluations, the need for
10 these evaluations has increased substantially over the last 5 years, with some state jurisdictions reporting
11 70 to 100 percent increases. Accordingly, New Hampshire experienced a 75 percent increase in the
12 number of competency orders since 2015. In 2019, there was an average of 66 court orders for trial
13 competency evaluations each month. With increases of the numbers of competency evaluations, there
14 are more individuals court-ordered for competency restoration. An individual ordered into competency
15 restoration is expected to improve and return to court to face his or her charges upon restoration of his or
16 her competency. Analysis of 56 published studies from 1975 to 2013 showed that nationwide, 81 percent
17 of individuals ordered to inpatient competency restoration treatment were able to return to court.

18 III. In New Hampshire, there is no formal, existing system to provide treatment for individuals
19 found incompetent to stand trial. In stark contrast to these national numbers, fewer than half of the
20 individuals ordered into a competency restoration period are able to return to court and complete their
21 criminal cases. Specifically, in 2019, only 44 percent of individuals were found to have their competency
22 restored.

23 IV. It is imperative that the state improve the efficiency and effectiveness of the competency
24 restoration process in New Hampshire by establishing a forensic liaison pilot program in one judicial
25 jurisdiction as recommended by the committee to study restoration of competency as created under RSA
26 135:49.

27 1:3 New Subdivision; Forensic Liaison and Competency Restoration Pilot Program. Amend RSA 135
28 by inserting after section 49 the following new subdivision:

29 Forensic Liaison and Competency Restoration Pilot Program

30 135:50 Forensic Liaison and Competency Restoration Pilot Program Established.

31 I. In this section, "parties" means the prosecution, the defense, and the office of the forensic
32 examiner.

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1 II. The department of health and human services shall establish a 2-year pilot program creating
2 the position of one or more forensic liaisons (FL) and contracting for all services necessary for
3 competency restoration not otherwise covered by a third-party payer. The FL shall operate as neutral
4 entities between the parties and the court in instances when competency is raised as an issue in a
5 criminal case. The FL shall operate in the superior court in Merrimack or Strafford county and in the
6 circuit courts district division in the county that is selected. The commissioner of the department of health
7 and human services shall be responsible for designating an employee of the department to hire, train, and
8 supervise the FL, or shall contract with another entity to provide such services and any services
9 necessary for competency restoration not covered by a third-party payer. The FL shall hold at least a
10 bachelor's-level degree in social work, psychology, criminal justice, or sociology, or have a minimum of 2
11 years of work experience in a relevant field, as determined by the department or contracted entity.

12 III. The duties of the FL shall include the following, unless provided by an existing case manager
13 or other provider in an effort to avoid the duplication of services:

14 (a) Facilitating the defendant's attendance at the initial competency evaluation with the office
15 of the forensic examiner.

16 (b) Assisting the defendant in obtaining the proper evaluations to determine the services
17 necessary for competency restoration.

18 (c) Providing recommendations to the parties and the court in writing as to the most
19 appropriate treatment or service to restore a defendant's competency based on the evaluations in
20 subparagraph (b) above.

21 (d) Assisting the defendant in obtaining and receiving any recommended services for
22 competency restoration or that would facilitate competency restoration services.

23 (e) Assisting the defendant in reducing barriers to accessing and maintaining treatment and
24 services.

25 (f) Sharing information with the parties and the court regarding the defendant's progress in
26 and adherence to treatment.

27 (g) Sharing information with the parties and the court relating to changes in the defendant's
28 condition relative to competency, restorability, or dangerousness.

29 (h) Receiving and disseminating treatment information from all mental health treatment
30 facilities and providers with the parties and the court.

31 (i) Providing updates to the parties and the court as outlined in RSA 135:17 and RSA 135:17-
32 a on the progression of competency restoration.

33 (j) Communicating and coordinating care with court-ordered providers.

34 (k) Performing any other appropriate duties as assigned by the department.

35 IV. The FL is entitled to all past and present relevant records and information relating to the
36 defendant's competency. The defendant shall provide authorization for the FL to obtain all necessary
37 mental health records. If the defendant does not provide the FL with relevant records or access to
38 records, the FL shall notify the parties, who may petition the court for an order requiring the provision of
39 such records. All materials received by the FL shall be confidential and exempt from disclosure under

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1 RSA 91-A. The FL shall provide access to relevant records to the parties and the court for the sole
2 purpose of assessment and evaluation of competency. Such records shall be kept confidential by the
3 parties and the court and shall not be used for any purpose other than determination of competency,
4 except that in the case of a person deemed not competent, not restorable, and dangerous per RSA
5 135:17-a, V, in which case the records shall be available to the state for the purpose of initiating a
6 guardianship or involuntary admission. Information provided by the FL to the parties and the court
7 regarding the defendant's treatment, or adherence thereto, shall be sealed. The court may unseal such
8 records or updates at its discretion.

9 V. The FL may be ordered to appear in any proceeding in which the court determines the FL is
10 necessary. In all cases, the parties and the court are entitled to file motions based upon reports made to
11 them by the FL.

12 VI. For each year of the pilot program, the FL shall report to the department the number of cases
13 received, the number of cases in which competency restoration was effectuated, and any
14 recommendations to improve the competency restoration system in New Hampshire. The department
15 shall present this report to the health and human services oversight committee.

16 VII. The department shall not be required to implement the pilot program established in
17 paragraph II until such date that the program is sufficiently funded to meet the requirements of this
18 section.

19 1:4 Effective Date. This act shall take effect upon its passage.

Approved: February 06, 2026
Effective Date: February 06, 2026

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